

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION

KEN A. RONNE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. C20-5647-MLP

ORDER GRANTING UNOPPOSED
MOTION TO STAY

This matter is before the Court on Plaintiff's Unopposed Motion to Stay ("Plaintiff's Motion"). (Dkt. # 16.) Plaintiff seeks review of Defendant's decision denying his application for disability benefits. (Dkt. # 6.) In his opening brief, Plaintiff argued that pursuant to *Lucia v. Securities and Exchange Commission*, 138 S.Ct. 2044 (2018), this Court should remand this case because the ALJ was not properly appointed under the Appointments Clause of the U.S. Constitution. (Dkt. # 12 at 15-16.) Plaintiff noted he failed to raise this issue during his administrative proceedings. (*Id.* at 16.)

Plaintiff requests a stay of this action because his Appointments Clause issue is now pending before the United States Supreme Court. (Dkt. # 16 at 1.) On November 9, 2020, the United States Supreme Court granted certiorari on the question of whether a claimant seeking

1 disability benefits under the Social Security Act forfeits a challenge to the appointment of an
2 administrative law judge under the Appointments Clause of the United States Constitution by
3 failing to raise that issue during the administrative proceedings. *See Carr v. Saul*, 961 F.3d 1267
4 (10th Cir. 2020), *cert. granted*, 2020 WL 6551771 (U.S. Nov. 9, 2020) (No. 19-1442); *Davis v.*
5 *Saul*, 963 F.3d 790 (8th Cir. 2020), *cert. granted*, 2020 WL 6551772 (U.S. Nov. 9, 2020) (No.
6 20-105).

7 Accordingly, based on Plaintiff's Motion to Stay (dkt. # 16), and that opposing counsel
8 has no opposition, it is hereby ORDERED that this matter is STAYED until the United States
9 Supreme Court has ruled on the consolidated cases of *Carr* and *Davis*, or until this Court orders
10 otherwise.

11 Within 14 days of the Supreme Court's ruling, Plaintiff shall file a supplemental brief
12 addressing his position on the Appointments Clause issue. Within 14 days after the filing of
13 Plaintiff's supplemental brief, Defendant shall file a supplemental brief responding to Plaintiff's
14 brief and setting forth his position on the Appointments Clause issue. And within 14 days after
15 the filing of Defendant's supplemental brief, Plaintiff may file a Reply Brief regarding the merits
16 of his case.

17 Dated this 3rd day of March, 2021.

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19 MICHELLE L. PETERSON
20 United States Magistrate Judge
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